interest factors (1), (2), (4), and (5) under 21 U.S.C. 823(f).

The Deputy Administrator, concurring with the Government's exceptions, does not agree with Judge Tenney's finding that Respondent's location in a low socio-economic area constitutes a mitigating factor for Respondent's numerous violations of the laws and regulations relating to controlled substances. The Deputy Administrator similarly rejects as a mitigating factor, Respondent's plea of good faith ignorance in that he was not actually informed of the reclassification of glutethimide from a Schedule III to a Schedule II controlled substance.

The Deputy Administrator disagrees with, and declines to follow, Judge Tenney's proposed suspension of Respondent's registration. Judge Tenney's reliance on *Buscema* is not applicable to the facts in the instant case. In *Buscema,* Judge Tenney found that Respondent's actions in failing to account for the disposition of Schedule II controlled substances and his subsequent guilty plea to a felony charge of falsifying records concerning controlled substances, occurred over a limited period of time and was motivated by his desire to protect his wife, an employee of his office and a subsequently rehabilitated drug addict suspected of diverting the missing drugs for her own use. In finding that the State of New York had exacted ''full and fair'' retribution and recommending that Dr. Buscema's registration not be revoked, Judge Tenney found, and the Deputy Administrator concurred, that Dr. Buscema had served his probationary sentence, had been discharged from probation two and one-half years early and had accepted responsibility for his conduct and failures regarding his wife's chemical dependency.

The Deputy Administrator finds that the leniency exercised in *Buscema* should not similarly be extended to Respondent in this proceeding. Respondent's numerous recordkeeping violations have resulted in the diversion of large quantities of controlled substances to a number of individuals, including drug addicts. Further, these violations were ongoing while previous violations by the State of Michigan were being appealed, and, therefore, the State of Michigan cannot be found to have exacted its ''retribution'' against Respondent for violations which it never had the opportunity to address. Additionally, as noted in Judge Tenney's thorough Findings of Fact, even aside from the numerous recordkeeping violations, Respondent also diverted large amounts of Tylenol with codeine and glutethimide for no legitimate medical purpose. Finally, contrary to Dr. Buscema's acceptance of responsibility for his actions, Mr. Goldstein, owner of Respondent pharmacy, continues to deny any misconduct, including those State violations upheld on appeal.

The Deputy Administrator finds merit in all of the Government's exceptions, and further finds that Respondent's ongoing violations of Federal and State controlled substance rules and regulations strongly indicate that his continued registration with DEA would not be consistent with the public interest.

Accordingly, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b) and 0.104, hereby orders that DEA Certificate of Registration, BF1175466, issued to Frank's Corner Pharmacy, be and it hereby is, revoked, and that any pending applications for registration be denied.

This order is effective May 8, 1995.

Dated: March 30, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–8402 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–09–M

[Docket No. 93–46]

Ellis Turk, M.D.; Revocation of Registration

On April 15, 1993, the Deputy Assistant Administrator (then Director), Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Ellis Turk, M.D. (Respondent), of Baltimore, Maryland, proposing to revoke his DEA Certificate of Registration, AT2444711, and deny any pending applications for renewal of such registration as a practitioner. The statutory basis for the Order to Show Cause was that Respondent's continued registration would be inconsistent with the public interest pursuant to 21 U.S.C. 823(f) and 824(a)(4).

Respondent, through counsel, requested a hearing on the issues raised in the Order to Show Cause and the matter was docketed before Administrative Law Judge Mary Ellen Bittner. On November 11, 1993, Respondent voluntarily discharged his counsel and continued *pro se.*

Following prehearing procedures, a hearing was held before Judge Bittner in Arlington, Virginia on November 22, 1993. On February 16, 1994, after the Government submitted its post-hearing brief, Respondent filed Response of Ellis Turk, M.D. to Government's Proposed Findings of Fact, Conclusions of Law and Argument (the ''Respondent's Response''). The Government filed a Motion to Strike Respondent's Response on February 18, 1994, on the grounds that the rules governing DEA administrative hearings (specifically 21 CFR 1316.64) do not permit such a responsive pleading. The Respondent filed a Response to Motion to Strike Respondent's Response on March 9, 1994.

On June 7, 1994, Judge Bittner issued her Opinion and Recommended Ruling, Findings of Fact, Conclusions of Law and Decision recommending that Respondent's DEA registration be revoked and any pending applications be denied. As part of the opinion, Judge Bittner allowed the Government's motion and struck Respondent's Response. Additionally, she allowed the Government's motion to strike specific exhibits filed by Respondent with his post-hearing brief. No exceptions to the Opinion were filed by either party even after an extension of time to ensure service of the opinion on the Respondent.

On July 8, 1994, the administrative law judge transmitted the record to the Deputy Administrator, including the Respondent's Response and the exhibits struck by Judge Bittner. On September 28, 1994, Respondent, through newly retained counsel, filed a Motion to Remand and Open the Record to Hear New Evidence with the Deputy Administrator of the DEA. The Government filed its opposition to Respondent's motion on October 13, 1994.

The Deputy Administrator has considered the record in its entirety, and, enters his final order in this matter pursuant to 21 CFR 1316.67, based on findings of fact and conclusions of law as set forth herein. The Deputy Administrator, concurring with the administrative law judge in her decision to strike Respondent's Response and exhibits filed post-hearing, did not consider those documents in rendering his final order.

The administrative law judge found that, in 1987, DEA received approximately ten reports from drug distributors that Respondent had purchased excessive quantities of the controlled substances phentermine and phendimetrazine. On two occasions in December 1988, DEA and Maryland State drug inspectors, pursuant to an administrative inspection warrant, conducted an accountability audit of controlled substances at Respondent's office, covering the period from

December 29, 1987 through December 12, 1988. the audit revealed shortages in the Respondent's accountability of controlled substances. These audit results were confirmed by a second audit conducted by DEA in 1989.

On November 22, 1989, a civil complaint was filed in the United States District Court for the District of Maryland against Respondent, based on the findings of the 1988 investigation. Following a bench trial on June 15 and 16, 1992, the court found that Respondent failed to comply with recordkeeping requirements of the Controlled Substances Act. On June 23, 1992, the court found Respondent liable for civil penalties in the amount of $24,000 for violations of 21 U.S.C. 827(a)(3) and 21 U.S.C. 842(a)(5). The court's decision was upheld by the U.S. Court of Appeals for the Fourth Circuit on February 18, 1993.

In her opinion of June 7, 1994, Judge Bittner noted that the Deputy Administrator may revoke a DEA Certificate of Registration and deny any pending application for such registration if he determines that the continued registration would be inconsistent with the public interest pursuant to the following factors set forth in 21 U.S.C. 823(f):

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's experience in dispensing or conducting research with respect to controlled substances.

(3) The applicant's conviction record under Federal or State laws relating to the manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal or local laws relating to controlled substances.

(5) Such other conduct which may threaten public health and safety.

Judge Bittner stated, as a threshold matter, the Deputy Administrator may properly rely on any one or a combination of the five factors set forth in Section 823(f) and give each factor the weight he deems appropriate. *See Henry J. Schwartz, Jr., M.D.*, 54 FR 16422 (1989). She further stated that all five factors under 21 U.S.C. 823(f) were relevant in determining whether Respondent's continued registration would be inconsistent with the public interest.

Judge Bittner held that the evidence provided by the Government clearly established the shortages in Respondent's accountability of controlled substances, and that, although Respondent offered various documents into evidence, none of them offered any plausible or coherent explanation for the discrepancies found in the investigation. She further found that the Respondent, throughout the course of his previous litigation, as well as the instant case, continuously had been defensive, hostile, and uncooperative and had insisted on clouding the issues with tangential arguments and rhetorical allegations of political wrongdoing. Judge Bittner concluded that Respondent currently was not in a position to properly discharge the obligations of a DEA registrant, and, therefore, Respondent's continued registration would not be in the public interest. The administrative law judge recommended that Respondent's DEA Certificate of Registration be revoked and any pending applications should be denied.

The Deputy Administrator adopts the opinion and recommended decision of the administrative law judge in its entirety. The Respondent's Motion to Remand and Reopen the Record is denied. During the course of this administrative hearing, Respondent put forth extensive argument, raised countless objections, and submitted numerous motions in full support of his cause. The Deputy Administrator does not find any support for Respondent's contention, as outlined in his motion, that his medical condition had a deleterious effect on Respondent's ability to represent himself throughout the course of this proceeding. This matter has been fully and fairly litigated and there is no need to relitigate this case.

Based on the foregoing, the Deputy Administrator of the Drug Enforcement Administration, pursuant to the authority invested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b) and 0.104 hereby orders that DEA Certificate of Registration AT2444711, previously issued to Ellis Turk, M.D. be, and it hereby is, revoked, and that any pending applications for registration be denied. This orders is effective May 8, 1995.

Dated: March 30, 1995.

Stephen H. Greene,

Deputy Administrator.

[FR Doc. 95–8403 Filed 4–5–95; 8:45 am]

BILLING CODE 4410–09–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Dropout Prevention

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of availability of funds and solicitation for grant application (SGA).

SUMMARY: All the information required to submit a proposal is contained in the announcement. The U.S. Department of Labor (DOL), Employment and Training Administration (ETA), announces the availability of funds for demonstration projects to replicate and formally evaluate a successful model by the Ford Foundation, known as the Quantum Opportunities Project (QOP). The U.S. Department of Education may also provide funds for this demonstration. The project is directed specifically toward at-risk youth entering the ninth grade. The objectives of the project are to enable participants to complete high school, and to improve their rate of entering and succeeding in post-secondary education.

Initial grants of $200,000 will be made to five local areas. Pending availability of funds, these grants will be renewed at the same level for three additional years to cover the four years of high school of participating students. To receive these funds, local sites will need to agree to participate in an evaluation in which eligible youth will be randomly assigned to receive or not to receive QOP services.

These grants will be limited to service delivery areas (SDAs) under the Job Training Partnership Act (JTPA). To apply for these grants, SDAs will need to have the local public school district as a co-applicant, and identify a community-based organization (CBO) to operate the demonstration. Matching funds in the amount of $200,000 a year will be required to operate a Quantum Opportunity Project. Additionally, local sites will need to commit to provide summer jobs for QOP participants for the three summers in which the participants are in the program. This demonstration is aimed at schools with high dropout rates. Target schools will need to have at least 40 percent fewer graduating seniors in June of 1994 than entering ninth graders in September of 1990 (For example, if a school had 300 entering ninth graders in September 1990, the graduating class in June of 1994 must have been 180 or fewer).

DATES: The closing date for receipt of applications will be May 15, 1995 at 2:00 p.m. (Eastern Time) at the address below.

ADDRESSES: Applications shall be mailed to the U.S. Department of Labor, Employment and Training Administration, Division of Acquisition and Assistance, Attention: Brenda M. Banks, Reference: SGA/DAA 95–005,